



**NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL**  
OF THE  
**American Federation of Government Employees**

Affiliated with AFL-CIO

*In Reply Please Refer To.*

STATEMENT OF  
CHARLES J. MURPHY  
PRESIDENT  
NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE  
SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

ON

H.R. 1518

JUNE 27, 1985

Madam Chairwoman and Members of the Subcommittee, I am pleased to appear here to testify on behalf of H.R. 1518, a bill to amend Title 5, United States Code, to include Inspectors of the Immigration and Naturalization Service (I&NS) and Inspectors of the United States Customs Service within the immediate retirement provisions applicable to certain employees engaged in hazardous occupations.

As President of the National Immigration and Naturalization Service Council, of the American Federation of Government Employees, which represents all non supervisory I&NS employees except those assigned to Border Patrol Sectors, I would like to express our deep appreciation to the Chair for her untiring efforts on behalf of all Federal workers and in particular our appreciation for these hearings on H.R. 1518, which will extend long overdue hazardous duty retirement coverage to the Immigration Inspectors we represent. I would also like to extend our thanks to Representative Al Swift, and his colleagues, for their sponsorship of this legislation.

Briefly, H.R. 1518 expands the provisions of 8336(c), Title 5, U.S. Code to cover Immigration and Customs Inspectors. The Hazardous Duty Retirement provisions of the statute provide that officers working under hazardous conditions may retire at age 50 with twenty years of service. The law guarantees that these employees will receive 50% of average salary plus 2% for each year of creditable government service over twenty years. The annuity is intended to make retirement at this age economically feasible. Covered employees contribute 7.5% of salary; exclusive of certain types of overtime compensation, as opposed to the 7% which is contributed by most employees. The law also provides for mandatory retirement at age 55 for employees with twenty years of hazardous duty service.

As the Subcommittee knows, Congress enacted Public Law 93-350, providing for such Hazardous Duty Retirement, not primarily to reward those Federal employees who are exposed to hardship and danger on the job, though some might argue that such a reward would only be appropriate as compensation for the risks these employees take. Rather, these provisions were intended primarily as a personnel tool through which the government would maintain a younger and more vigorous workforce by making it possible for such law enforcement personnel to retire at an earlier age.

Given this focus, the basic question regarding H.R. 1518 is whether the duties of Immigration and Customs Inspectors should mandate their coverage under this personnel policy. In our view the answer to this question is a resounding yes.

The American public is entitled to a young and vigorous workforce to protect our borders and to ensure the energetic and effective enforcement of our laws. As immigration issues have moved to the forefront of the nation's public policy agenda, it has become clear that it is important that we have Immigration and Customs Inspectors who have the mental and physical strength and stamina to fully meet the strenuous requirements of their jobs. Inclusion of these Inspectors under this established personnel policy will allow the needed recruitment of young and able workers to perform this crucial and increasingly dangerous task. The jobs of our Immigration and Customs Inspectors are as difficult and as hazardous as those of our other enforcement personnel.

The exclusion of these positions from hazardous duty coverage creates a situation that is not only unjust but one which is unwise as well. It works to encourage some of our best and most qualified inspectors to seek positions in other branches of the Service which are covered under the statute. The effect is to deny this Branch of the Service the ability, which other Branches have, to attract and hold for their entire careers the best and most effective officers.

Further, while there is often movement among the Service's other occupational groups little such movement occurs into the Inspections Branch. This is not to say that those in the job are less vigorous, less dedicated, or less effective than the Service's other officers but it is to say that the cream of the crop of the Inspections Branch move up and out of the line inspections corps and into other covered positions. This damages the Service's overall enforcement effort. Extending 6(c) coverage will increase the willingness of other Service personnel to accept positions in this area.

I, for example, am a Special Agent, assigned to our Anti-Smuggling Unit, and am covered under the present 6(c) provisions. I would never voluntarily accept an offer of employment in the Inspections Branch, and neither would many of my colleagues. What prudent officer would accept a job with hazards equal to those in other occupational areas when the other jobs are covered under 6(c) retirement and the Inspector's job is not? The answer is few if any.

Given the importance of the nature of the Inspector's duties in this Subcommittee's deliberations I would like to briefly outline their jobs.

The I&NS and Customs share the inspections responsibilities at each port of entry. It is the practice in many cities that these Officers be cross designated to perform the other's functions, so that these officers have dual enforcement responsibilities and in fact these officers perform the mission of other federal agencies as well. Each Inspector is an expert in his or her own agency's mission. In recognition of this fact each agency maintains Secondary Inspectional Facilities to conduct in depth inquiries into violations of their particular statutes. Our Inspectors are trained to enforce the Immigration Laws and to look to the admissibility of any individual seeking to enter the United States and to prevent the illegal entry, or smuggling, of those not eligible to enter under color of law. These officers inspect each individual seeking to enter, they conduct interviews in depth in Secondary Inspections. They make arrests, detain aliens and citizens for prosecution or administrative proceedings. They take part in every stage of such proceedings from presentation of cases to United States Attorneys for prosecution, to grand jury proceedings and criminal trials. They are in every respect law enforcement officers.

Immigration and Customs Inspectors rely upon their judgement, personal observations, questioning techniques, and increasingly sophisticated data bases to perform their duties. In many areas the Inspector receives on the spot assistance in identifying fugitives and other criminals by use of the two Services' data bases but in every case the officer is required to utilize his or her investigative skill to determine if an arrest, seizure, or further investigative activity are necessary. They are constantly in a position which can demand that they arrest wanted felons, smugglers, terrorists, or aliens seeking to enter the United States illegally. These individuals may fall under the purview of State or Federal or Foreign Law.

The nature of the Inspector's job is such that she or he must act on the basis of their intuitive and investigative skill in situations where only those skills and their judgment lie in the way of ready entry of criminals or undesirable aliens into the United States. Many land border ports are staffed by a single Inspector. These officers are often required to work alone for long hours. Not all of these Inspectors work at Airports, or major Seaports, many work on board ship miles far from other officers or any law enforcement backup. Many of these Inspectors are required to be armed for their own safety, and in many states these officers are designated state peace officers by legislation.

The fact of the matter is that the Immigration Inspector's job is much like that of the Border Patrol Agent or Special Agent. Like their colleagues Inspectors must distinguish between those eligible to be in or to enter the United States and those ineligible for admission. Their job varies in that they work in a fixed location but it is similar in terms of the danger inherent in the individual confrontation with each person they encounter. One significant difference between these officers is in the numbers of people each will have to deal with in the normal course of a business day. While Special Agents or Border Patrol Agents might deal with dozens, or perhaps hundreds of people daily, Inspectors, of both Services, deal with hundreds, and on busy days, thousands of people. The personal health hazard of dealing with such large numbers of people alone is significant yet we must also take into account the knowledge that an Inspector could be shot or killed or kidnapped at work or while off duty, all of which have occurred during the last year.

The distinction seems to be that Inspectors must detect the malafide document, impersonator, smuggler, felon, or contraband goods from a fixed position on an immediate basis, rather than after an investigation of greater length. Yet the hazard is the same. In fact the hazard is growing, in certain areas Inspectors now work undercover in and around the Ports of Entry to identify and apprehend smugglers. Inspectors perform most of the functions of their colleagues without the freedom that characterizes the positions of their brother and sister officers. Inspectors must act quickly, without the benefit of planning, or backup, to affect the arrests or seizures which their colleagues can plan and control. In a sense it is from this requirement for on the spot action that the hazard arises. For the public to be assured that it has the vigorous and effective career minded officer on the spot to do the job it is only appropriate that these positions be covered under the early retirement provisions of Section 8336(c).

While some would suggest that it is the nature and length of the "investigation" that determines law enforcement status we would suggest that the hazard arises out of the actual confrontation both Inspectors and Agents of every type must face. The hazard arises not out of the time consumed in determining or recognizing illegal activity but out of the moment of truth, and the likelihood of legal action, that occurs with an arrest. An appropriate analogy could be drawn to the police officer who walks a beat and the detective who investigates "more sophisticated" crime. Neither faces reduced hazards though one might know beforehand, in a greater number of cases, when he might have to make an arrest, based on the ability to conduct that later and longer inquiry away from the scene.

A few examples would be appropriate at this time and perhaps the best example is that of our largest Port of Entry, San Ysidro, California where an average of fifteen felony arrests are made each day. More stolen vehicles are seized at this port annually than in the entire state of California. At San Ysidro, California this past weekend alone three Immigration Inspectors were injured while attempting to prevent the entry of ineligible aliens. One female inspector was assaulted by a female alien who attempted to pass through the vehicular inspections lines on foot. Another Inspector was bit by a female alien who attempted to flee during inspection. A third officer had his wrist broken when he attempted to arrest an alien who had made a false claim to United States citizenship. During the past month our Immigration Inspectors, at San Ysidro and Otay Mesa interdicted some 200 different smuggling attempts and seized some 125 vehicles.

In each case where our Inspectors make a criminal arrest, or apprehend a smuggler, they perform the same function as our Special Agents. Their function and their responsibilities are the same as those of our other officers and in fact where officers have not carried out that responsibility as effectively as expected the Service has attempted to impose discipline.

Given the nature of the duties of Immigration and Customs Inspectors, we fail to see the rationale for excluding these positions from Hazardous Duty Retirement coverage. Both the I&NS and the Customs Service have long recognized the realities of this situation but apparently the career managers of the Services are prevented from giving expression to this realization. Hopefully the Congress will.

Given the overwhelming need for Hazardous Duty Retirement Coverage for Immigration and Customs Inspectors the I&NS Council wholeheartedly urges the adoption of H.R. 1518. We urge the Subcommittee to ensure the passage of H.R. 1518 to assist us in improving the effectiveness of the Immigration and Naturalization Service and Customs Services and to provide thereby for the recognition of the increasing hazards faced by these officers.

I would again express my thanks to the Chair and the members of this Subcommittee for their patience here today and, again, to Representative Swift and his colleagues for their sponsorship of this legislation. I would be happy to answer any questions you might have.